

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BIONPHARMA INC.,

Plaintiff,

Case No. 1:21-cv-10656-JGK

v.

CORERX, INC.,

Defendant.

**DECLARATION OF ELI B. RICHLIN IN SUPPORT OF
AZURITY PHARMACEUTICALS, INC.'S MOTION TO INTERVENE
TO MOVE FOR RECONSIDERATION OF OR APPEAL
ORDER GRANTING INJUNCTIVE RELIEF**

I, Eli B. Richlin, hereby declare, under penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

1. I am a member of the state bar of New York and an attorney with the law firm of Wilson Sonsini Goodrich & Rosati, P.C., counsel for Proposed Intervenor Azurity Pharmaceuticals, Inc. ("Azurity") in the above-captioned action. I submit this declaration based on my personal knowledge and in support of Azurity's Motion to Intervene to Move for Reconsideration of Or Appeal Order Granting Injunctive Relief
2. Attached hereto as Exhibit 1 is a true and correct copy of Redacted Public Version of District of Delaware's August 2, 2021 Opinion in *Silvagate Pharm., Inc. v. Bionpharma Inc.*, C.A., No. 18-1962-LPS (D. Del.) (regarding the '008, '442, and '745 Patents); *Silvagate Pharm. Inc. v. Bionpharma Inc.*, C.A. No. 19-1067-LPS (D. Del.) (regarding the '987 Patent).

3. Attached hereto as Exhibit 2 is a true and correct copy of February 1, 2021 Transcript of Bench Trial in *Silvergate Pharm., Inc. v. Bionpharma Inc.*, C.A., No. 18-1962-LPS (D. Del.) (regarding the '008, '442, and '745 Patents); *Silvergate Pharm. Inc. v. Bionpharma Inc.*, C.A. No. 19-1067-LPS (D. Del.) (regarding the '987 Patent).
4. Attached hereto as Exhibit 3 is a true and correct copy of Azurity's New Drug Application ("NDA") No. 208686 for Epaned®.
5. Attached hereto as Exhibit 4 is a true and correct copy of Azurity's Epaned® patents (U.S. Patent Nos. 9,669,008, 9,808,442, 10,039,745, 10,154,987, 10,772,868, 10,786,482, 11,040,023, and 11,141,405).
6. Attached hereto as Exhibit 5 is a true and correct copy of the April 29, 2021 Final Judgment issued in *Silvergate Pharm., Inc. v. Bionpharma Inc.*, C.A., No. 18-1962-LPS (D. Del.) (regarding the '008, '442, and '745 Patents); *Silvergate Pharm. Inc. v. Bionpharma Inc.*, C.A. No. 19-1067-LPS (D. Del.) (regarding the '987 Patent).
7. Attached hereto as Exhibit 6 is a true and correct copy of the May 17, 2021 Joint Stipulation of Dismissal filed in *Silvergate Pharm., Inc. v. Bionpharma Inc.*, C.A., No. 20-1256-LPS (D. Del.).
8. Attached hereto as Exhibit 7 is a true and correct copy of Azurity and CoreRx, Inc.'s November 24, 2021 Litigation Settlement Agreement settling *Azurity Pharm., Inc. v. CoreRx, Inc.*, Case No. 8:21-cv-2515-VMC-SPF (M.D. Fla.) and *Azurity Pharm., Inc. v. CoreRx, Inc.*, C.A., No. 21-1522-LPS (D. Del.).

9. Attached hereto as Exhibit 8 is a true and correct copy of a Notice of Dismissal Without Prejudice filed on November 26, 2021 in *Azurity Pharm., Inc. v. CoreRx, Inc.*, Case No. 8:21-cv-2515-VMC-SPF (M.D. Fla.).
10. Attached hereto as Exhibit 9 is a true and correct copy of a Notice of Dismissal Without Prejudice filed on November 26, 2021 in *Azurity Pharm., Inc. v. CoreRx, Inc.*, C.A., No. 21-1522-LPS (D. Del.).
11. Attached hereto as Exhibit 10 is a true and correct copy of the Transcript of the January 25, 2022 Hearing for Bionpharma's Motion for Preliminary Injunction in the above-captioned action.
12. Following the Court's January 25, 2022 Hearing, Azurity immediately and diligently began preparing to file a motion to intervene in the above captioned action. Azurity had planned to file such papers on the evening that the Court issued its January 27, 2022 Order. That evening, Azurity then began working on the accompanying Motion to Intervene to Move For Reconsideration of or Appeal Order Granting Injunctive Relief.
13. Attached hereto as Exhibit 11 is a true and correct copy of the publicly filed Reply Declaration of Jeffery A. Stec, Ph.D. filed on October 1, 2021 in *Azurity Pharm., Inc. v. Bionpharma Inc.*, C.A. No. 21-12870 (D.N.J.).
14. Attached hereto as Exhibit 12 is a true and correct copy of the publicly filed Supplemental Declaration of Jeffery A. Stec, Ph.D. filed on November 16, 2021 in *Azurity Pharm., Inc. v. Bionpharma Inc.*, C.A. No. 21-12870 (D.N.J.).

15. Attached hereto as Exhibit 13 is a true and correct copy of the Transcript of a November 10, 2021 Oral Argument in *Azurity Pharm., Inc. v. Bionpharma Inc.*, C.A. No. 21-1286 (D. Del.)

16. Attached hereto as Exhibit 14 is a true and correct copy of Azurity's Confidential document Enalapril Liquid Market Data (Trx) dated from December 18, 2018 to January 14, 2022.

Pursuant to 28 U.S.C. §1746, I hereby declare under penalty of perjury that the foregoing is true and correct.

s/ Eli B. Richlin
Eli B. Richlin